



Challenges Unique to Transgender Persons in US Correctional Settings: a Scoping Review

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Accepted: 6 September 2023 / Published online: 18 October 2023
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Abstract US correctional facilities operate under a binary interpretation of gender, which can yield inherent risks and conflicts for incarcerated transgender people. We conducted a scoping literature review on challenges unique to transgender individuals within US correctional settings. Online databases were searched to identify papers that addressed the challenges of incarcerated transgender adults age 18+ within US correctional institutions. A concurrent analysis of legal literature was reviewed with key policy recommendations extracted. A total of 33 papers (21 scientific studies and 12 legal analyses) met criteria for inclusion. Of the 21 scientific studies, the

majority of papers ($n=14$) focused on transgender women and most ($n=13$) utilized qualitative methods. Emerging themes revealed challenges in key domains of violence, health, healthcare access, housing, and a pervasive culture of transphobia. Legal analyses supported policy changes such as implementing case-by-case housing classification systems, providing all forms of gender-affirming care, and safeguarding gender expression. Transgender persons face distinct obstacles while incarcerated in US correctional facilities and are in need of expanded protections. Working in tandem with efforts to decarcerate and reduce criminal legal involvement, widespread institutional policy change, such as redefining housing assignment policies, ensuring gender-affirming healthcare, and expanding transgender-specific competency trainings for correctional staff, is necessary.

Supplementary Information The online version contains supplementary material available at <https://doi.org/10.1007/s11524-023-00794-z>.

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Keywords Transgender · Incarceration · Correctional health policy

Introduction

The transgender identity has various definitions and meanings throughout the years based on social, cultural, and structural influences. Most commonly, transgender identity is defined by an individual who identifies by and lives as a gender that is different from the genetic and anatomical sex assigned at birth [1, 2]. Many transgender people experience

stigmatization, isolation, trauma, homelessness, discrimination, unemployment, poverty, and violence [3]. This has likely intensified under the current sociopolitical climate, where several US states have enacted anti-LGBTQ+ legislation, including placing restrictions on gender-affirming care [4]. As a consequence of pervasive economic exclusion, transgender persons, particularly transgender women, adopt survival behaviors that are frequently criminalized, such as engagement in sex work, selling drugs, and substance use [5–8]. Further, discriminatory policing practices reverberate biases rampant among law enforcement officers, notably referred to as “Walking While Transgender” [9]. The combination of biased policing and societal exclusion leading to engagement in criminalized acts of survival are likely mechanisms for disproportionate criminal legal contact among the transgender community [10]. Compared to cisgender peers, transgender individuals are disparately incarcerated (as reported in 2016 by the Vera Institute of Justice, 16% of transgender adults reported a history of incarceration as compared to 2.7% of the general population) [11], with similarly disproportionate rates of police interaction and arrest [12]. This is especially true for Black transgender women, who face the most extreme injustices at the intersections of race and gender identity [13].

Traditionally, correctional settings operate under a rigidly defined gender binary, with incarcerated persons classified into either male or female facilities based on anatomical sex. This structural approach creates an inherent schism for those outside of a strictly dichotomous interpretation of gender, placing transgender persons at risk for challenges of discrimination, violence, abuse, and neglect [10, 14–17]. To no surprise, there has been a range of legal action pursued over abuses experienced while incarcerated, often in the context of Eighth Amendment violations. In the landmark case of *Farmer v. Brennan*, a transgender woman successfully claimed that prison officials violated her Eighth Amendment right by acting with deliberate indifference when they failed to provide protection against repeated acts of sexual assault while she was incarcerated in a men’s facility [18]. The death of Layleen Polanco, a Black transgender woman at Rikers Island, is another example of the severe abuses and neglect transgender people face in carceral settings [19]. While the introduction of the

Prison Rape Elimination Act in 2003 (PREA, P.L. 108–79) represented an effort toward addressing a rampant culture of violence and victimization within correctional systems, there remains much work to be done. Incarcerated individuals who identify with a gender minority status are a population in need of expanded protection, advocacy, and culturally tailored federal and state correctional policy reform. Given the increased contact with the criminal legal system, it is important to understand the unique challenges that are experienced by transgender persons within carceral settings, as this can provide a more informed roadmap toward designing and implementing effective, needs-based solutions for a population that is too often neglected by society. A prior review published in 2019 addressed the experience of incarcerated transgender people with a focus on sexual behaviors and HIV/STI risk [20]. There is an urgent need for more comprehensive documentation of the range of challenges experienced by this population, inclusive of the legal contextual factors and frameworks.

The aim of this review is to detail the unique challenges specific to transgender people while in correctional facilities. There has yet to be performed a broad assessment of the literature on the housing policies, violence, healthcare, and legal landscape specific to experiences of transgender people in correctional facilities within the USA. This assessment, both scientific and legal, can provide a framework for policymakers on deficit areas in need of expanded protections and services in order to improve and safeguard the health, safety, and wellness of incarcerated transgender persons.

Methods

This scoping review was developed following PRISMA Extension for Scoping Reviews guidelines [21] and was registered with Open Science Framework (osf.io/r2zaf). All methods were conducted under the guidance of an expert librarian.

Search Strategy

The following databases were searched: PubMed, APA PsycInfo, Web of Science, EMBASE, Cochrane Library, Campbell Collaboration,

(jails OR jail OR jailed OR prison OR prisons OR prisoners OR imprisonment OR incarceration OR incarcerated OR correctional facilities OR correctional institutions OR detention centers OR penitentiary OR inmate)

AND

(transgender OR transwomen OR transmen OR transman OR transwoman OR transsexual OR LGBTQ)

Fig. 1 Search string

MEDLINE (Ovid), BIOSIS, and Biological Abstracts. Endnote was used to manage the bibliographic citations. All bibliographies of final included papers as well as the bibliographies of other review papers on the transgender-correctional

experience underwent a hand search to identify any other relevant studies. All years were searched and no language or other limits were applied. Figure 1 depicts the search terminology used to populate studies for review.

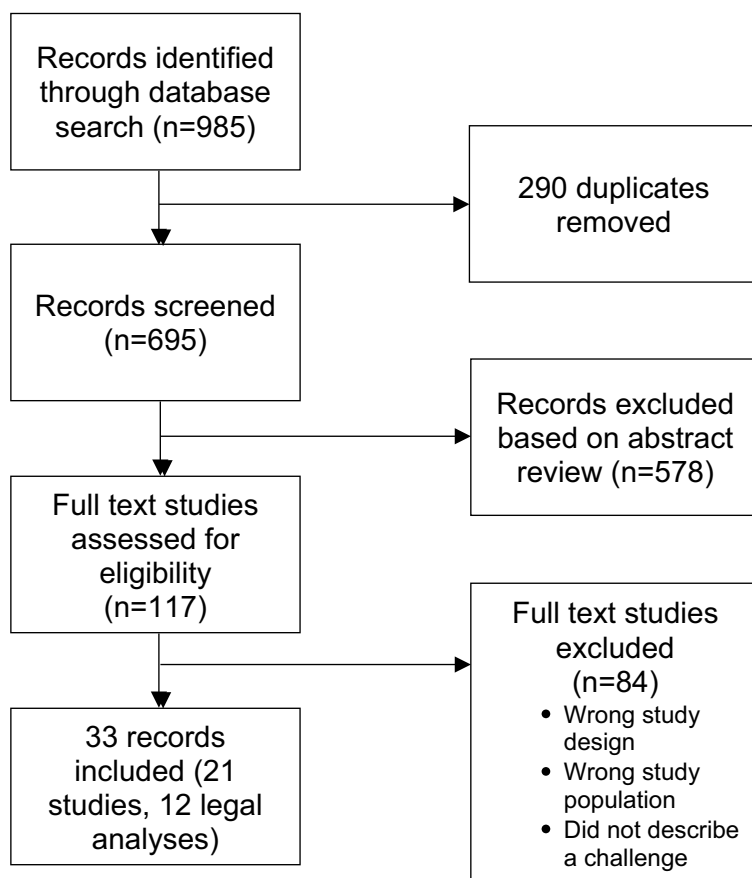


Fig. 2 Flow diagram of literature search

Inclusion and Exclusion Criteria

Studies were considered eligible for inclusion if they were specific to the USA, addressed issues specific to challenges faced while incarcerated, and focused on experiences of transgender adults (i.e., not juveniles). The scientific analysis was focused on published, peer-reviewed studies as a means to optimize scientific validity and generalizability. Therefore, protocols, dissertations, books, book chapters, reports, opinions, theories, and systematic reviews (so to not be duplicative) were excluded from the analysis. Bibliographies of systematic reviews underwent a hand search to identify articles of interest. Studies that sampled transgender participants in addition to other identities were included if at least 50% of the sample identified as a transgender man or woman. A similar approach was taken for incarceration; studies that sampled formerly incarcerated transgender individuals with transgender individuals who have never been incarcerated were included if at least 50% of the sample had experienced incarceration.

Data Extraction and Synthesis

Using Covidence (a web-based platform designed to aid in review management), three reviewers screened abstracts, with two reviewers voting per citation. Full text review was completed by two reviewers. All conflicts were discussed until a mutual consensus was reached to determine the final decision. Using Google Forms, a data-charting template was developed under the guidance of an expert librarian. Reviewers inputted data into the form continuously.

Data Synthesis

Data was synthesized using Excel spreadsheets. Recurrent themes were identified and categorized into all-encompassing concepts.

Results

Characteristics of Selected Publications

We identified 21 scientific papers that met our inclusion criteria (Fig. 2), with publication years ranging from 2009 to 2022. Table 1 depicts each study, with

the corresponding aims, methods, study population, and described challenge. The majority of papers sampled incarcerated transgender women ($n=14$), with the remainder focusing on transgender men ($n=1$), both transgender men and women ($n=5$), and one article whose subjects were correctional healthcare providers. Most study designs were qualitative in nature ($n=13$). Challenges were categorized into the following domains: interpersonal violence, health, healthcare access, housing, and transphobic factors (Table 2). An additional 12 papers (populated by the same search) that provided a legal perspective and analysis of incarcerated transgender rights issues were included. The publication years for the legal papers ranged from 2008 to 2022.

A Culture of Transphobia

About half of the studies ($n=10$) noted transphobic factors being challenging for incarcerated transgender persons. Many cited a culture of transphobia in correctional facilities [15, 22–24], with limitations on gender expression [25] and a negative stigma associated with their gender identity [22]. Sexton and colleagues found that many transgender individuals had difficulty navigating their identity while imprisoned in order to adjust to the new environment and adapt to prison norms [26]. A few studies noted policies in place that restricted a feminine gender expression among transgender women, such as limitations on the ability to have long hair or wear bras, makeup, and nails [15, 22, 27]. Some noted that transgender persons were frequently misgendered by other incarcerated people and correctional staff alike [22, 28]. Many documented aggressions through verbal harassment, strip searches by a guard not of the persons requested gender preference, and destruction of property [27–30].

Heightened Rates of Interpersonal Violence

Nine studies noted high rates of interpersonal violence among incarcerated transgender persons. This included high levels of physical and sexual assault and victimization, inappropriate touching, and sexual propositions and harassment, all of which were perpetrated by other incarcerated persons, correctional staff, or both [2, 24, 26–29, 31–33]. One study found that race/ethnicity was linked with violence, with Black, Latina/Hispanic, and mixed race/ethnicity transgender women reporting higher levels of victimization

Table 1 Study demographics

Study	Aim	Methods	Study population	Challenges identified
Brown et al. (2009)	To present the current situation regarding access to health care for those incarcerated with gender identity disorder and the related issue of housing in a single reference source available to those who are faced with this issue as health care providers in corrections settings	Qualitative study	Both transgender men and women	Housing, healthcare
Brown (2010)	To expand the limited literature on surgical self-treatment in the form of autocastration and autopenectomy with a focus on the potential influence of incarceration with denial of access to transgender health care	Case series	Transgender women	Healthcare
Brown (2014)	To address the range of concerns of incarcerated transgender persons across the country by documenting the concerns of 129 inmates from prisons in all regions of the USA	Qualitative study	Both transgender men and women	Housing, healthcare, health, violence
Clark et al. (2017)	To examine correctional healthcare providers' knowledge of, attitudes toward, and experiences providing care to incarcerated transgender patients	Qualitative study	Correctional healthcare providers	Healthcare
Drakeford (2018)	To examine suicide attempts among transgender individuals who have been incarcerated, with emphasis on the role of correctional system policies	Cohort study	Both transgender men and women	Healthcare, violence
Jaffer et al. (2016)	To review and evaluate the adequacy of care for transgender patients in the New York City jail system	Mixed-methods	Both transgender men and women	Housing, healthcare, health

Table 1 (continued)

Study	Aim	Methods	Study population	Challenges identified
Jenness et al. (2019)	To examine the factors and processes that shape the experience of sexual victimization in the lives of transgender women incarcerated in prisons for men	Mixed-methods	Transgender women	Violence, transphobia
Jenness et al. (2021)	To empirically assess how an array of factors—including features of the self, the prison environment, and prisoners' interactions with each other—shape the probability of transgender women in prisons for men experiencing sexual victimization and non-sexual physical assault	Cohort study	Transgender women	Violence
Kilty (2021)	To explore how intersectional stigma emerges in the carceral environment in relation to the women's multiple identity locations and the ways that HIV and transgender stigma in particular are linked to two harmful correctional practices	Qualitative study	Transgender women	Housing, healthcare, health, transphobia
Lea III et al. (2018)	To examine the sexual behaviors, HIV attitudes, and condom use of 17 gay, bisexual, and transgender women housed in a protective custody unit in the Los Angeles County Jail to develop a better understanding of the consensual sexual behaviors of male prisoners	Qualitative study	Transgender women	Housing, healthcare
McCauley et al. (2018)	To document the health-related experiences and needs of jail detainees who self-identified as transgender women	Qualitative study	Transgender women	Housing, healthcare, health
Reisner et al. (2014)	To examine the sociodemographic and health correlates of ever being in jail or prison among transgender women in the National Transgender Discrimination Survey	Cohort study	Transgender women	Healthcare, violence

Table 1 (continued)

Study	Aim	Methods	Study population	Challenges identified
Rosenberg et al. (2015)	To examine the experiences of incarcerated trans persons in the USA, thus extending this nascent trans geography work by considering a new population in a new space	Qualitative study	Transgender women	Housing, healthcare, violence, transphobia
Rosenberg (2017)	To explore trans temporalities through the experiences of incarcerated trans feminine persons in the USA and to illustrate how temporality is complexly woven through trans feminine prisoners' experiences of transitioning in the prison industrial complex	Case series	Transgender women	Healthcare, transphobia
Routh et al. (2017)	To identify and analyze state statutes and state DOC policies regarding the classification, interaction with, and treatment of incarcerated transgender people, specifically those who express feminine characteristics in male prison facilities	Qualitative study	Both transgender men and women	Healthcare
Sanders et al. (2022)	To critically analyze the manner in which a strong cisnormative prison archive and its accompanying architecture affect trans women's embodiment, experiences, and enactment of their (trans)gender while incarcerated in men's settings	Qualitative study	Transgender women	Housing, healthcare, transphobia
Sexton et al. (2010)	To provide the first empirical portrayal of a prison population in California that is unique by virtue of being both transgender and incarcerated	Mixed-methods	Transgender women	Healthcare, health, violence, transphobia

Table 1 (continued)

Study	Aim	Methods	Study population	Challenges identified
Sumner et al. (2015)	To interrogate the assumption that what is known about incarcerated transgender people in men's prisons translates seamlessly to women's facilities by examining current understandings of what it means to be transgender in a women's prison	Qualitative study	Transgender men	Transphobia
Sumner et al. (2016)	To examine the "dilemma of difference" incarcerated transgender people pose and face within a sex-segregated prison system organized around the pursuit of safety and security	Qualitative study	Transgender women	Housing, violence, transphobia
Vogler et al. (2022)	To show that the classification processes that transwomen encounter continues to marginalize them and expose them to particularly gendered forms of punishment	Qualitative study	Transgender women	Housing, violence, transphobia
White Hughto et al. (2018)	To assess formerly incarcerated transgender women's experiences receiving physical-, mental-, and transition-related healthcare in correctional settings and to document potential structural, interpersonal, and individual barriers to healthcare	Qualitative study	Transgender women	Housing, healthcare, transphobia

[33]. Other characteristics that were associated with increased risk of violence were insurance status (uninsured/publicly insured), prior receipt of hormone therapy, education level, and mental health issues [32, 33]. Relationships with other prisoners was associated with violence, noting that incarcerated transgender persons who engaged in a consensual sexual relationship with another incarcerated person had three times the odds of sexual assault, sexual victimization, and non-sexual assault [29, 32, 33]. Transgender persons who experienced gender-based victimization were found to have an increased risk of suicide attempts [2]. One study found that incarcerated persons who engaged in behaviors inconsistent with their sex assigned at birth

(e.g., wearing hair extensions) could be met with retaliation by correctional staff, such as additional strip searches and groping [31].

Poor Health Outcomes

Several studies ($n=5$) noted poor health among incarcerated transgender persons, noting worsened mental health with increased symptoms of anxiety, depression, and gender dysphoria, in addition to a higher prevalence of substance use disorders (including alcohol and other drug use) and HIV [22, 26, 31, 34, 35]. One study noted that exacerbated mental health outcomes were linked with

Table 2 Challenges addressed by study

Author, year	Housing	Healthcare	Health	Violence	Transphobia
Brown, 2009	✓	✓			
Brown, 2010		✓			
Brown, 2014	✓	✓	✓	✓	
Clark, 2017		✓			
Drakeford, 2018		✓		✓	
Jaffer, 2016	✓	✓	✓		
Jenness, 2019				✓	✓
Jenness, 2021				✓	
Kilty, 2021	✓	✓	✓		✓
Lea III, 2018	✓				
McCauley, 2018	✓	✓	✓		
Reisner, 2014		✓		✓	
Rosenberg, 2015	✓	✓		✓	✓
Rosenberg, 2017		✓			✓
Routh, 2017		✓			
Sanders, 2022	✓	✓			✓
Sexton, 2010		✓	✓	✓	✓
Sumner, 2015					✓
Sumner, 2016	✓			✓	✓
Vogler, 2022	✓			✓	✓
White Hughto, 2018	✓	✓			✓
Total	11	15	5	9	10

placement in solitary confinement and disruption of HIV treatment or hormone therapy [22].

Inadequate Access to Gender-Affirming Healthcare

Most studies ($n=15$) documented that access to healthcare, particularly gender-affirming care, was inadequate [2, 15, 16, 22, 25–27, 30, 31, 33–38]. Hormone replacement therapy and sex reassignment surgery were found to be frequently denied [22, 27, 30, 33–38]. Often, this was a result of correctional policies not providing appropriate, evidence-based clinical guidance. Many institutions employ a “freeze-frame” approach, such that the dosage of the hormone therapy prior to incarceration is maintained at a static dosage, without ability to titrate as needed. More so, policies often required transgender persons to provide documentation eliciting proof of community hormone prescription; however, many are uninsured and resort to acquiring hormone therapy on the streets [35]. Denial of sex reassignment surgery was found to be associated with surgical self-treatment in the form of autocastration and autopenectomy among several incarcerated transgender women [31, 36].

Several studies noted barriers stemming from correctional healthcare providers themselves, noting a lack of knowledge and expertise of transgender health issues and healthcare [26]. There was evidence of provider biases, mistreatment, ambivalence, and a lack of sensitivity [15, 34]. One study evaluated correctional healthcare providers and characterized three distinct categories of barriers to providing transgender healthcare: structural barriers (lack of training and limited budgetary resources), interpersonal barriers (custody staff biases obstructed a provider’s ability to provide care), and individual barriers (lack of cultural and clinical competency) [16].

Correctional facilities in states that provided a higher degree of transgender healthcare were associated with no change in risk of reporting attempted suicide, while facilities in states with less access to transgender healthcare saw increased risk of reported suicide attempts [2].

Harmful Housing Assignments and Policies

A frequent challenge experienced by incarcerated transgender persons was regarding housing

assignments. As prisons are typically segregated by a binary interpretation of gender [15, 30, 31, 37], this often leaves transgender persons with three main imposed possibilities for housing. Transgender persons may be housed with those who share their anatomic sex assigned at birth, they may be placed in restrictive housing (such as administrative segregation or single cell housing), or they may be housed in a separate unit designed for LGBTQ+ persons [22, 24, 27, 28, 30, 34, 35, 39]. The individuals themselves may have their own preference of where they would like to be housed that are unique to that person [30, 35]. One study noted that 96% of transgender participants preferred housing criteria to be based on self-identity rather than birth-identity [34].

Evidence Gaps in Research

Most studies were qualitative in nature ($n = 13$, 61.9%), with a limited degree of quantitative data to supplement qualitative findings. Quantitative

data may reinforce the findings from these studies and would enhance the impact of this work on policymaking. Additionally, the studied populations were primarily transgender women, with 14 studies analyzing only transgender women and an additional 5 analyzing both transgender men and women. Only 1 study focused on the challenges of incarcerated transgender men. Further research on the experiences of incarcerated transgender men is needed. Most studies ($n = 14$) focused on experiences in prison settings, with 2 elaborating on both jail and prison settings, 1 dedicated to challenges within immigration detention centers, and the remaining ($n = 3$) concentrating on experiences within a jail setting. Additional research on jails and immigration detention centers is prudent.

Adapted Socio-Ecological Model

To further synthesize our results, we utilized an adapted version of the socio-ecological model (Fig. 3)

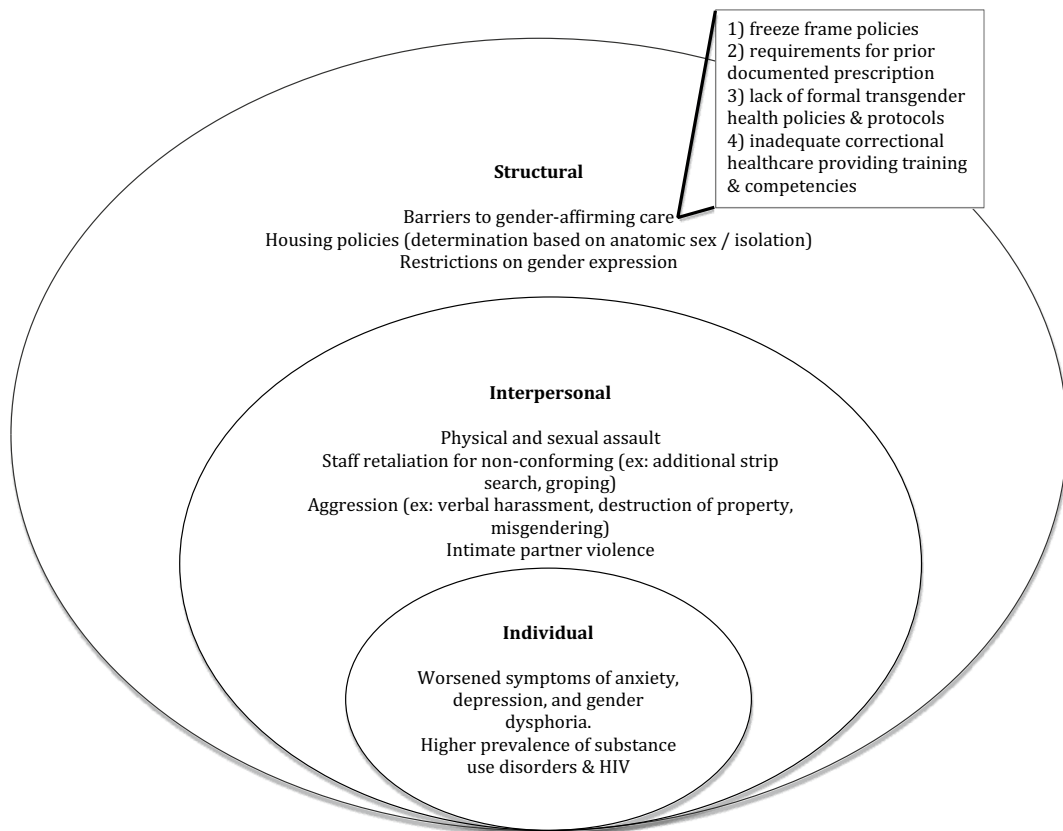


Fig. 3 Adapted socio-ecological model of transgender challenges in correctional facilities

[40]. We classified challenges into categories of structural, interpersonal, and individual, as compounding social forces may differentially interact at each level, and thereby influence vulnerability in distinct ways. More so, such a model can help identify future opportunities for intervention and policy change. Challenges that fell within the structural domain included barriers to gender-affirming care, housing policies, and institutional restrictions on gender expression. Interpersonal barriers comprised physical and sexual assault, staff retaliation for non-conforming, aggression, and intimate partner violence. The final domain of individual-level challenges encompassed health conditions of anxiety, depression, gender dysphoria, substance use disorders, and HIV.

Legal Analysis and Recommendations

We identified 12 legal publications that provided a legal analytic approach to understanding challenges of transgender persons in correctional settings (Table 3). By synthesizing prior litigation that has addressed such issues in the courts, these narratives yield plausible policy recommendations relevant to tackling many of the previously described challenges. Of the 12 papers, 9 focused on challenges pertaining to healthcare, 2 examined housing assignments, and 1 addressed a transphobic culture within correctional institutions. Several common themes emerged from this analysis. Many authors called for the widespread provision of all forms of gender-affirming care in US correctional facilities [41–43] by employing comprehensive, evidence-based, and explicit healthcare policies [41, 44–46] and that the courts should reject blanket bans on forms of gender-affirming treatments [47, 48]. Braaten and Vaughn proposed further research to better delineate discrepancies between requests for treatment and treatments made available and to elucidate barriers to finding a surgeon who will operate on someone who is incarcerated [49]. A second theme pertained to housing and placement policies. Many advocated for a case-by-case housing classification system that (1) considers the individual's own perspective, (2) accounts for their gender identity, and (3) does not default to relying on the person's genitalia or sex assigned at birth [50, 51]. Additional recommendations included

the creation of transgender, non-binary, gender non-conforming, and intersex prison wings and to ensure that if any separation is done, it is not in the form of isolation [51]. The final theme presented around respect and dignity, urging that detainees be able to freely identify by and express their gender identity and for all identities to be met with respect and legitimacy [52].

Discussion

Our results reveal several important themes within the literature. While incarcerated, transgender persons face distinct obstacles in five key domains. These are (1) heightened interpersonal violence specific to physical and sexual harassment and abuse, (2) poor health outcomes, (3) inconsistent access to quality, culturally-sensitive, evidence-based gender-affirming care (both medical and surgical), (4) harmful housing assignment placement and policies rooted in a binary interpretation of gender, and (5) a pervasive culture of transphobia with imposed limitations on self-identified gender expression. As noted by nearly all of the included studies (15 of 21), it is worth highlighting the overwhelming degree to which transgender individuals struggle with receiving adequate gender-affirming care while incarcerated. This appears to be a leading and widespread issue among incarcerated transgender groups, with significant public health implications. These findings are strengthened by the legal perspectives, which identify prior litigation aimed at these challenges and provide corresponding policy recommendations. This review builds upon prior work in the field, as the combination of scientific evidence with analytical legal perspectives offers a unique strategic plan toward (1) addressing the root causes and (2) advancing the safety, protection, and wellness of incarcerated transgender adults.

With the majority of study designs being qualitative in nature, our results suggest a need for increased quantitative methods. Importantly, there is significantly limited data on the experience of incarcerated transmasculine adults. Further research on the experiences of this group is urgently needed in order to lay groundwork for informed interventions and change. Additional focus on experiences at the intersections

Table 3 Legal analysis table

Author, year	Publication source	Aim	Incarcerated transgender rights legal cases	Key policy recommendations
Braaten, 2022	<i>Women & Criminal Justice</i>	<ul style="list-style-type: none"> - To analyze the US Circuit Courts of Appeals cases filed by trans women inmates against corrections and/or medical officers for failure to provide hormone therapy and/or gender confirmation surgery - To analyze the similarities and differences among the federal circuits that have litigated issues involving the constitutional rights of trans women inmates 	<p><i>Gibson v. Collier</i> <i>Edmo v. Corizon, Inc</i> <i>Farmer v. Brennan</i> <i>Battista v. Clarke</i> <i>Kosilek v. Spencer</i> <i>Norsworthy v. Beard</i> <i>Campbell v. Kallas</i> <i>Keohane v. Florida DOC Secretary</i> <i>Pinson v. United States</i> <i>De'lonia v. Johnson</i> <i>De'lonia v. Angelone</i> <i>Williams v. Kelly</i> <i>Fields v. Smith</i> <i>Mitchell v. Kallas</i> <i>Rosati v. Igbinoso</i> <i>Allard v. Gomez</i> <i>Meriwether v. Faulkner</i> <i>White v. Farrier</i> <i>Lamb v. Norwood</i> <i>Supre v. Ricketts</i> <i>Praylor v. Texas Department of Criminal Justice</i> <i>Maggart v. Hanks</i> <i>Druley v. Patton</i></p>	<ol style="list-style-type: none"> 1. Engage researchers to determine the specific types of surgical procedures and medical treatment requested by and those made available to transgender prisoners and to assess the ability and possible difficulties in finding a surgeon to perform gender confirmation surgery while in prison
Braver, 2020	<i>Columbia Law Review</i>	<ul style="list-style-type: none"> - To provide medical background information on gender dysphoria and an overview of Eighth Amendment jurisprudence on claims by incarcerated transgender individuals - To consider the competing legal applications of deliberate indifference among the Kosilek IV, Gibson, and Edmo courts - To describe how the Kosilek-Edmo framework lies in contrast to the Gibson court's approach - To recommend that courts adopt the Kosilek-Edmo framework - To offer jurisprudential recommendations for how courts can standardize their deliberate-indifference analyses on these types of claims in the future 	<p><i>Kosilek v. Spencer</i> <i>Gibson v. Collier</i> <i>Edmo v. Corizon</i> <i>De'lonia v. Johnson</i> <i>Fields v. Smith</i> <i>Farmer v. Brennan</i> <i>Edmo v. Idaho Department of Corrections</i> <i>Keohane v. Florida Department of Corrections</i> <i>Lamb v. Norwood</i> <i>Norsworthy v. Beard</i> <i>Battista v. Clarke</i></p>	<ol style="list-style-type: none"> 1. Assess the subjective prong of a deliberate indifference claim on a case-by-case basis of medical need irrespective of other prisons' policies writ large 2. Reject categorical prison policies on medical treatments 3. Rely on experts familiar with the WPATH Standards of Care 4. Apply increased caution when considering the security concerns prison officials may proffer in regard to providing certain accommodations to incarcerated transgender individuals

Table 3 (continued)

Author, year	Publication source	Aim	Incarcerated transgender rights legal cases	Key policy recommendations
Bright, 2018	<i>Journal of Criminal Law & Criminology</i>	To examine strategies and barriers to getting gender nonconforming-competent medical protocols in front of courts, with the goal of challenging the prevailing prison medical regime of fixed binary-based care and ultimately moving the law toward a self-determinative model of gender identity	<i>Soneeya v. Spencer</i> <i>Farmer v. Brennan</i> <i>Kosilek v. Spencer</i> <i>Fields v. Smith</i> <i>De'Lonta v. Angelone</i> <i>Rowe v. Correctional Medical Services Inc</i> <i>Kothmann v. Rosario</i> <i>Wolfe v. Horn</i> <i>Norsworthy v. Beard</i> <i>Diamond v. Owens</i>	1. Utilize updated medical standards that enable patient gender self-determination and do not emphasize binary transition, in Eighth Amendment claims 2. Ensure gender nonconforming prisoners have access to the gender-affirming medical care to which they are entitled
Garcia, 2014	<i>American Journal of Law & Medicine</i>	To explore the ambiguities of <i>Kosilek</i> and discuss the control that departments of correction retain, post- <i>Kosilek</i> , in providing transitional surgeries such as facial feminization and sex reassignment surgeries	<i>Kosilek v. Spencer</i> <i>Farmer v. Brennan</i> <i>Battista v. Clarke</i> <i>Maggert v. Hanks</i> <i>Supre v. Ricketts</i> <i>Phillips v. Michigan Department of Corrections</i> <i>De'Lonta v. Angelone</i> <i>South v. Gomez</i> <i>Wolfe v. Horn</i> <i>Fields v. Smith</i>	1. Design clear structural policies and protocols detailing the scope of transitional medical and surgical care for incarcerated transgender persons
Luchs, 2021	<i>Fordham Law Review</i>	To explore the divergence between the two existing approaches to gender confirmation surgery in correctional settings (blanket ban versus case-by-case analysis) and to argue that a case-by-case approach better comports with both the historical confines of the constitution and contemporary societal values	<i>Kosilek v. Spencer</i> <i>Gibson v. Collier</i> <i>Edmo v. Corizon, Inc</i> <i>Keohane v. Florida Department of Corrections</i> <i>De'Lonta v. Johnson</i> <i>Soneeya v. Spencer</i>	1. Determine the necessity of gender confirmation surgery on a case-by-case basis 2. Do not uphold blanket bans on gender confirmation surgeries
Marcus, 2019	<i>The Journal of the American Academy of Psychiatry and the Law</i>	To highlight the unique challenges and opposing views in the treatment of gender dysphoria among transgender inmates through the analysis of <i>Gibson v. Collier</i>	<i>Gibson v. Collier</i> <i>Kosilek v. Spencer</i> <i>Farmer v. Brennan</i> <i>Merriweather v. Faulkner</i>	1. Develop evidence-based treatment protocols to address the medical needs of inmates with gender dysphoria
Maruri, 2011	<i>Cornell Journal of Law and Public Policy</i>	To square the legal arguments for provision of hormone therapy to transgender inmates with the philosophical background that shapes the transgender rights movement and to argue that access to hormone therapy by transgender inmates involves the intersection of a quasi-fundamental right with a quasi-suspect class	<i>Sundstrom v. Frank</i> <i>Fields v. Smith</i> <i>Supre v. Ricketts</i> <i>Brooks v. Berg</i> <i>Kosilek v. Maloney</i> <i>Phillips v. Michigan Department of Corrections</i> <i>Merriweather v. Faulkner</i>	1. Utilize a sliding scale review when advocating for transgender prisoners' rights to hormone therapy

Table 3 (continued)

Author, year	Publication source	Aim	Incarcerated transgender rights legal cases	Key policy recommendations
Harv L Rev, 2014	<i>Harvard Law Review</i>	To focus on the housing of transgender inmates in American prisons by: - Setting forth the prevailing practices of genitalia-based classification and segregation - Summarizing the risks faced by transgender inmates under this system - Describing the legal and constitutional frameworks under which inmates have sought to litigate the conditions of their confinement - Outlining calls for reform - Detailing recent reforms at the state and federal level	<i>Farmer v. Brennan</i> <i>Greene v. Bowles</i> <i>Doe v. Yates</i> <i>Lopez v. New York City</i> <i>Lucrécia v. Samples</i> <i>Meriwether v. Faulkner</i> <i>Medina-Tejada v. Sacramento County</i>	1. Adapt housing policies that account for inmate's gender identity 2. Adjust housing decisions based on an assessment of an inmate's vulnerability
O'Day-Senior, 2008	<i>Hastings Law Journal</i>	To examine the experiences of transgender detainees in ICE detention with a specific focus on the right to hormone treatment	<i>Brooks v. Berg</i> <i>Phillips v. Michigan Dept. of Corrections</i> <i>Gammert v Idaho State Bd of Corr</i> <i>Farmer v. Brennan</i>	1. Create a transgender healthcare policy that explicitly defines criteria for access to hormone replacement therapy and other common transgender health care needs
Ruff, 2018	<i>Cornell Journal of Law and Public Policy</i>	To offer background on gender theory and apply a gendered framework to issues experienced by transgender people while incarcerated	<i>Farmer v. Brennan</i> <i>Maggert v. Hanks</i> <i>Meriwether v. Faulkner</i> <i>Fields v. Smith</i> <i>Kosilek v. Spencer</i> <i>D.B. v. Orange County</i> <i>Murray v. U.S. Bureau of Prisons</i> <i>Schwenk v. Harford</i>	1. Eradicate cissexism from prison systems and de-psychopathologize deviations from gender binary 2. Allow for people to self-identify their own gender and recognize all genders as legitimate and with respect
Schneider, 2016	<i>Wisconsin Law Review</i>	To argue that the 8th Amendment guarantees transgender prisoners the right to all forms of transitional care while incarcerated	<i>Farmer v. Brennan</i> <i>Supre v. Rickets</i> <i>Fields v. Smith</i> <i>Kosilek v. Spencer</i>	1. Mandate access to all forms of gender-affirming care in US correctional facilities
Szuminski, 2021	<i>Minnesota Law Review</i>	To explore the history of transgender people incarcerated in US prisons, explaining how the current classification systems and placement options within American prisons fail to acknowledge non-binary identities, and proposes solutions such as creating separate wings within existing prisons that are designated solely for transgender and non-binary people	<i>Farmer v. Brennan</i> <i>Fields v. Smith</i> <i>Kosilek v. Spencer</i>	1. Case-by-case placement determination that considers the individual's perspective 2. Guarantee that separation is not done in isolation 3. Completely overhaul the current American prison system (ex: prison abolition efforts, increased focus on rehabilitative and preventative efforts) 4. Create a third placement option available that is open only to transgender prisoners and offers the same conditions as the rest of the prison 5. Congress should pass legislation that mandates the creation of TNGI prison wings

of race/ethnicity and gender identity, especially for Black and Hispanic/Latinx transgender people, is also necessary to inform health equity efforts. Such endeavors can help direct interventions aimed at making these spaces safer for transgender individuals. Additionally, there is increasingly more thought on how to best be inclusive of transgender identities within the community, and this approach should be applied to correctional settings as well.

This review has several limitations. First and foremost, the transgender identity has changed and been shaped socially over time, and not all of those who may have personally identified as transgender may have outwardly shared and expressed so. This limits our ability to generalize our findings to the entirety of those who self-identify as transgender and is primarily limited to those who both identify and externally express their transgender identity. The majority of the included studies were focusing on transgender women, with only one study focusing solely on transgender men, which may limit the implications for other types of gender identities such as non-binary and gender fluid. We also used a defined set of search parameters and it is possible that we were not able to retrieve all possible papers that have been published on these topics, particularly papers that may have had other main research topics, but briefly mentioned work among transgender populations. This study was not initially designed to critically review jurisprudence, and only medical databases were searched. We acknowledge that the medico-legal findings may not be entirely comprehensive, as our database review did not include legal databases.

Conclusions

Our findings can provide a detailed roadmap on key areas in need of reform. The US correctional system can and

must increase protections for and improve the care of transgender persons. This can be accomplished through redefining existing housing assignment policies to be cognizant of gender minorities, offering comprehensive gender-affirming care (such as the initiation and continuation of hormone replacement therapy regardless of prior documentation of prescription), and expanding competency trainings for correctional staff on the specific needs of transgender populations. In the face of growing anti-trans sentiment nationwide, these reforms are needed more urgently than ever. It should be acknowledged that regardless of gender identity, prisons are extremely violent and unhealthy places. While it is important to highlight the unique challenges faced by transgender individuals, reforms that simply improve conditions for transgender people relative to cisgender people are woefully inadequate if not accompanied by wide scale efforts at decarceration. Improving the conditions within correctional settings is only a short-term solution to the broader societal plague of mass incarceration. We urge our communities, peers, leaders, and legislators to advocate for addressing and resolving the fundamental societal flaws leading to the increased likelihood of criminalization of transgender persons and to support decarceration efforts nationwide.

Acknowledgements The project described was supported by the National Center for Advancing Translational Sciences, National Institutes of Health, through Grant Award Number UL1TR001445. The efforts of RE are supported by grant number T32HS026120 from the Agency for Healthcare Research and Quality. RT is supported by the National Institute on Minority Health and Health Disparities (K01MD016346) and the University of Maryland Prevention Research Center cooperative agreement from the Centers for Disease Control and Prevention (U48DP006382). MK, QH, and KS are supported by the National Institute on Drug Abuse (R01DA044037). The content of this paper is solely the responsibility of the authors and does not necessarily represent the official views of the NIH, NIMHD, NIDA, NCATS, AHRQ, or the CDC. The funders had no role in study design, data collection and analysis, decision to publish, or preparation of the manuscript.

Data Availability The data that support the findings of this study are available from the corresponding author [RE] upon request.

Appendix

Preferred Reporting Items for Systematic reviews and Meta-Analyses extension for Scoping Reviews (PRISMA-ScR) Checklist

SECTION	ITEM	PRISMA-ScR CHECKLIST ITEM	REPORTED ON PAGE #
TITLE			
	Title	Challenges Unique to Transgender Persons in Correctional Settings: A Scoping Review	1
ABSTRACT			
	Structured summary	United States correctional facilities operate under a binary interpretation of gender, which can yield inherent risks and conflicts for incarcerated transgender people. We conducted a scoping literature review on challenges unique to transgender individuals within U.S. correctional settings. Online databases were searched to identify papers that addressed the challenges of incarcerated transgender adults age 18+ within United States correctional institutions. A concurrent analysis of legal literature was reviewed with key policy recommendations extracted. A total of 33 papers (21 scientific studies and 12 legal analyses) met criteria for inclusion. Of the 21 scientific studies, the majority of papers ($n = 14$) focused on transgender women and most ($n = 13$) utilized qualitative methods. Emerging themes revealed challenges in key domains of violence, health, healthcare access, housing, and a pervasive culture of transphobia. Legal analyses supported policy changes such as implementing case-by-case housing classification systems, providing all forms of gender-affirming care, and safeguarding gender expression. Transgender persons face distinct obstacles while incarcerated in U.S. correctional facilities and are in need of expanded protections. Working in tandem with efforts to decarcerate and reduce criminal legal involvement, widespread institutional policy change, such as redefining housing assignment policies, ensuring gender-affirming healthcare, and expanding transgender-specific competency trainings for correctional staff, is necessary.	1
INTRODUCTION			
	Rationale	Given the increased contact with the criminal legal system, it is important to understand the unique challenges that are experienced by transgender persons within carceral settings, as this can provide a more informed roadmap toward designing and implementing effective, needs-based solutions for a population that is too often neglected by society. A prior review published in 2019 addressed the experience of incarcerated transgender people with a focus on sexual behaviors and HIV/STI risk.[20] There is an urgent need for more comprehensive documentation of the range of challenges experienced by this population, inclusive of the legal contextual factors and frameworks.	2
	Objectives	The aim of this review is to detail the unique challenges specific to transgender people while in correctional facilities	2
METHODS			
	Protocol and registration	osf.io/r2zaf	2
	Eligibility criteria	Inclusion Criteria: - Specific to the United States - Addresses issues DURING incarceration (i.e., not post-release) - Adults (no juvenile justice system) - Grey literature - Popular literature - Studies that sampled transgender participants in addition to other identities were included if at least 50% of the sample identified as a transgender man or woman - Studies that sampled groups that both had and had not been previously incarcerated were included if at least 50% had been previously incarcerated Exclusion Criteria: Wrong design: (Protocol papers, etc)	4
	Information sources*	The following databases were searched: PubMed, APA PsycInfo, Web of Science, EMBASE, Cochrane library, Campbell collaboration, MEDLINE (Ovid), BIOSIS, Biological abstracts. Endnote was used to manage the bibliographic citations. The date of the most recent search was May 2022.	2-3

SECTION	ITEM	PRISMA-ScR CHECKLIST ITEM	REPORTED ON PAGE #
Search	8	(jails OR jail OR jailed OR prison OR prisons OR prisoners OR imprisonment OR incarceration OR incarcerated OR correctional facilities OR correctional institutions OR detention centers OR penitentiary OR inmate) AND (transgender OR transwomen OR transmen OR transman OR transwoman OR transsexual OR LGBTQ)	3
Selection of sources of evidence†	9	Using Covidence, three reviewers screened abstracts, with two reviewers voting per citation. All conflicts were resolved as a group. Full text review was completed by two of the above three reviewers.	4
Data charting process‡	10	Using Google forms, a data-charting form was developed under the guidance of an expert librarian. Two reviewers inputted data into the form continuously.	4
Data items	11	Transphobic factors, healthcare, health, housing, violence	4
Critical appraisal of individual sources of evidence§	12	N/A	
Synthesis of results	13	Data was synthesized using Excel.	4
RESULTS			
Selection of sources of evidence	14	985 records were identified and assessed for eligibility.	4
Characteristics of sources of evidence	15	A study demographics table was created to provide characteristics of the sources of evidence.	5-8
Critical appraisal within sources of evidence	16	N/A	
SECTION	ITEM	PRISMA-ScR CHECKLIST ITEM	REPORTED ON PAGE #
Results of individual sources of evidence	17	(1) A culture of transphobia (2) Heightened rates of interpersonal violence (3) Poor health outcomes (4) Inadequate access to gender-affirming care (5) Harmful housing assignments & policies	4, 8-10
Synthesis of results	18	A chart was created to display the challenges addressed by each included study	9
DISCUSSION			
Summary of evidence	19	Our results reveal several important themes within the literature. While incarcerated, transgender persons face distinct obstacles in five key domains. These are: (1) heightened interpersonal violence specific to physical and sexual harassment and abuse, (2) poor health outcomes, (3) inconsistent access to quality, culturally-sensitive, evidence-based gender-affirming care (both medical and surgical), (4) harmful housing assignment placement and policies rooted in a binary interpretation of gender, and (5) a pervasive culture of transphobia with imposed limitations on self-identified gender expression.	11
Limitations	20	This review has several limitations. First and foremost, the transgender identity has changed and been shaped socially over time, and not all of those who may have personally identified as transgender may have outwardly shared and expressed so. This limits our ability to generalize our findings to the entirety of those who self-identify as transgender and is primarily limited to those who both identify and externally express their transgender identity. The majority of the included studies were focusing on transgender women, with only one study focusing solely on transgender men, which may limit the implications for other types of gender identities such as non-binary and gender fluid. We also used a defined set of search parameters and it is possible that we were not able to retrieve all possible papers that have been published on these topics, particularly papers that may have had other main research topics, but briefly mentioned work among transgender populations. This study was not initially designed to critically review jurisprudence, and only medical databases were searched. We acknowledge that acknowledge that the medico-legal findings may not be entirely comprehensive, as our database review did not include legal databases.	15

SECTION	ITEM	PRISMA-ScR CHECKLIST ITEM	REPORTED ON PAGE #
Conclusions	21	The U.S. correctional system can and must increase protections for and improve the care of transgender persons. This can be accomplished through redefining existing housing assignment policies to be cognizant of gender minorities, offering comprehensive gender-affirming care (such as the initiation and continuation of hormone replacement therapy regardless of prior documentation of prescription), and expanding competency trainings for correctional staff on the specific needs of transgender populations.	15
FUNDING			
Funding	22	The project described was supported by the National Center for Advancing Translational Sciences, National Institutes of Health, through Grant Award Number UL1TR001445. The efforts of RE are supported by grant number T32HS026120 from the Agency for Healthcare Research and Quality. RT is supported by the National Institute on Minority Health and Health Disparities (K01MD016346) and the University of Maryland Prevention Research Center cooperative agreement from the Centers for Disease Control and Prevention (U48DP006382). MK, QH, and KS are supported by the National Institute on Drug Abuse (R01DA044037). The content of this paper is solely the responsibility of the authors and does not necessarily represent the official views of the NIH, NIMHD, NIDA, NCATS, AHRQ, or the CDC. The funders had no role in study design, data collection and analysis, decision to publish, or preparation of the manuscript.	15

JBI Joanna Briggs Institute; PRISMA-ScR Preferred Reporting Items for Systematic reviews and Meta-Analyses extension for Scoping Reviews

*Where *sources of evidence* (see second footnote) are compiled from, such as bibliographic databases, social media platforms, and Web sites

†A more inclusive/heterogeneous term used to account for the different types of evidence or data sources (e.g., quantitative and/or qualitative research, expert opinion, and policy documents) that may be eligible in a scoping review as opposed to only studies. This is not to be confused with *information sources* (see first footnote)

‡The frameworks by Arksey and O'Malley (6) and Levac and colleagues (7) and the JBI guidance (4, 5) refer to the process of data extraction in a scoping review as data charting

§The process of systematically examining research evidence to assess its validity, results, and relevance before using it to inform a decision. This term is used for items 12 and 19 instead of "risk of bias" (which is more applicable to systematic reviews of interventions) to include and acknowledge the various sources of evidence that may be used in a scoping review (e.g., quantitative and/or qualitative research, expert opinion, and policy document)

From: Tricco AC, Lillie E, Zarin W, O'Brien KK, Colquhoun H, Levac D, et al. PRISMA Extension for Scoping Reviews (PRISMA-ScR): Checklist and Explanation. *Ann Intern Med.* 2018;169:467–473. <https://doi.org/10.7326/M18-0850>

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